



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/886,516	07/01/97	BERSON	

LM51/0524

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278 ART UNIT PAPER NUMBER

05/24/99

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/886,516

Applicant(s)

Berson et al.

Examiner

Todd Jack

Group Art Unit

2767

☒ Responsive to communication(s) filed on Apr 27, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-11 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-11 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2767

DETAILED ACTION

The prior office action in which you reference is incorporated here and the rejections are maintained.

Claim Rejections - 35 USC § 103

1. Claim 1-2 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Salive.

The applicant states that his invention includes an unreproducible pattern associated with the label and an encrypted portion which includes information from the unreproducible pattern. Moore teaches a mark, symbol, or pattern which is not visible until exposed to certain frequencies or wavelengths of visible or nonvisible light which renders them readable (col. 12, line 47-65). The mark, symbol, or pattern consists of information which may be encoded entries (col. 12, line 29-46). Thus, Moore's printed object is unreproducible without the proper key and/or frequency of light.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Salive as applied to claim 1 above, further in view of that which is well known in the art.

Art Unit: 2767

Those arguments stated in "1." above, hold here.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Salive et al, further in view of Huddleston.

First, the examiner holds that Huddleston's application of magnetic particles to fabric in a manner as to allow detection when a magnetic detector or head is passed over them is within the applicant's field of endeavor. Both inventions may include magnetic fibers applied in a manner as to create a mark which communicates a fact to the reader of that mark. Both inventions require special devices to read the mark. Under normal operating conditions, both inventions possess secure labels-only being removed with the application of a solvent or non-ordinary action.

Second, as stated in the above paragraph, the examiner does believe that the invention of Huddleston is prudent to the inventor's particular problem. Thus, Huddleston is held as analogous art.

4. Claim 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Salive, further in view of Pastor.

Art Unit: 2767

Those arguments stated in "1." above, hold here.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd Jack whose telephone number is (703) 305-1027. The examiner can normally be reached on M-Th from 8:00 to 5:00. The examiner can also be reached on alternate Fridays.

Application/Control Number: 08886516

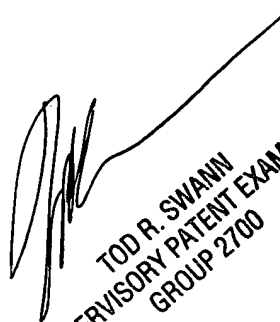
Page 5

Art Unit: 2767

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tod Swann, can be reached on (703) 308-7791. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-0040.


Todd Jack

May 13, 1999


TOD R. SWANN
SUPERVISORY PATENT EXAMINER
GROUP 2700

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 U.S.C. §§ 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Salive.

Moore (5,592,561) teaches verifying an article of manufacture comprising the following steps: preparing information related to said article (column 12 lines 29-45), encrypting a portion of said information (column 4 lines 3-6) and securely associating said article with said encrypted information(column 1 lines 28-32). Moore fails to teach labeling and securely associating said label with said article. Salive et al. (5,607,187) teaches in column 1 lines 5-10, placing information related to said article on a label and securely associating said label with said article in an inventory control system similar to Moore's. It would have been obvious to modify Moore's inventory control system to include Salive's placing information related to said article on a label and securely associating said label with said article rather than printing the information on the article itself as this would enable more items to be controlled as some items would not easily be printed on.

The verifying information of claim 2 is taught by the distribution information (column 12 lines 29-46) of Moore as if the information was copied it would not be delivered to the proper distributor.

The unreproducible information of claim 4 is taught by the column 12 teaching of Moore's encrypted information.

The scanning said label and comparing features of claims 10-11 are taught by Moore's scanning and comparison circuits (see column 4 first paragraph of Moore).

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Salive et al. as applied to claim 1 above, and further in view of well known in the art.

Moore-Salive teaches unique identifications of articles, identification of the provider of said article and a description of said articles (for all see column 12 of Moore) but fails to disclose expiration dates of items. Official notices is taken that expiration dates of items is well known in the art of labeling articles. For example milk, bread, soda, etc. It would have been obvious to modify Moore in view of Salive inventory control system to include expiration dates than not include it as this would reduce the chance of soiled items being sold.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Salive et al. as applied to claim 4 above, and further in view of Huddleston.

Moore-Salive teaches an unreproducible pattern (column 12 of Moore) but fails to disclose that said pattern is formed of magnetic fibers embedded in said label. Huddleston it is well known to use magnetic fibers embedded in a label to mark an item in an inventory control system similar to Moore's. See Abstract. It would have been obvious to modify Moore-Salive inventory control system to include magnetic fiber marking rather other types of marking as suggested by column 2 reference to Huddleston in Moore.

6. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Salive et al. as applied to claim 4 above, and further in view of Pastor.

Moore-Salive teaches a generic encryption algorithm to encrypt information but fails to recite public key encryption. Pastor teaches it is well known to use public key encryption in an inventory control system similar to Moore's. See Abstract. It would have been obvious to modify Moore-Salive inventory control system to include public key encryption rather than generic encryption as public key encryption works well for authentication.

Conclusion

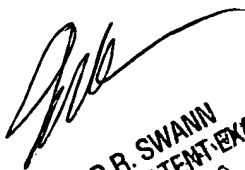
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Berson, Braun, Cordery, Sant'Anselmo and Wang are considered pertinent.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd Jack whose telephone number is (703) 305-1027. The examiner can normally be reached on M-Th from 8:00-5:00. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tod Swann, can be reached at (703) 308-7791. The fax number is (703) 305-3988.

trs

December 13, 1998


TOD R. SWANN
SUPERVISORY PATENT EXAMINER
GROUP 1 (703) 308-7791